

## § 20.24

(1) Individual access, challenge, and review requirements;

(2) Administrative security;

(3) Physical security to the maximum extent feasible.

(b) Thirty days after the end of a State's next legislative session—Submission to OJARS of a description of State policy on dissemination of criminal history record information.

(c) Six months after the end of a State's legislative session—Submission to OJARS of a brief and concise description of standards and operating procedures to be followed by all criminal justice agencies covered by OJARS regulations in complying with the State policy on dissemination.

(d) Eighteen months after the end of a State's legislative session—Submission to OJARS of a certificate attesting to the conduct of an audit of the State central repository and of a random number of other criminal justice agencies in compliance with OJARS regulations.

[41 FR 11715, Mar. 19, 1976, as amended at 42 FR 61596, Dec. 6, 1977]

## § 20.24 State laws on privacy and security.

Where a State originating criminal history record information provides for sealing or purging thereof, nothing in these regulations shall be construed to prevent any other State receiving such information, upon notification, from complying with the originating State's sealing or purging requirements.

## § 20.25 Penalties.

Any agency or individual violating subpart B of these regulations shall be subject to a civil penalty not to exceed \$10,000 for a violation occurring before September 29, 1999, and not to exceed \$11,000 for a violation occurring on or after September 29, 1999. In addition, OJARS may initiate fund cut-off procedures against recipients of OJARS assistance.

[41 FR 11715, Mar. 19, 1976, as amended by Order No. 2249-99, 64 FR 47102, Aug. 30, 1999]

## 28 CFR Ch. I (7-1-02 Edition)

### Subpart C—Federal Systems and Exchange of Criminal History Record Information

SOURCE: Order No. 2258-99, 64 FR 52227, Sept. 28, 1999, unless otherwise noted.

#### § 20.30 Applicability.

The provisions of this subpart of the regulations apply to the III System and the FIRS, and to duly authorized local, state, tribal, federal, foreign, and international criminal justice agencies to the extent that they utilize the services of the III System or the FIRS. This subpart is applicable to both manual and automated criminal history records.

#### § 20.31 Responsibilities.

(a) The Federal Bureau of Investigation (FBI) shall manage the NCIC.

(b) The FBI shall manage the FIRS to support identification and criminal history record information functions for local, state, tribal, and federal criminal justice agencies, and for non-criminal justice agencies and other entities where authorized by federal statute, state statute pursuant to Public Law 92-544, 86 Stat. 1115, Presidential executive order, or regulation or order of the Attorney General of the United States.

(c) The FBI CJIS Division may manage or utilize additional telecommunication facilities for the exchange of fingerprints, criminal history record related information, and other criminal justice information.

(d) The FBI CJIS Division shall maintain the master fingerprint files on all offenders included in the III System and the FIRS for the purposes of determining first offender status; to identify those offenders who are unknown in states where they become criminally active but are known in other states through prior criminal history records; and to provide identification assistance in disasters and for other humanitarian purposes.

#### § 20.32 Includable offenses.

(a) Criminal history record information maintained in the III System and

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the FIRS shall include serious and/or significant adult and juvenile offenses.

(b) The FIRS excludes arrests and court actions concerning nonserious offenses, e.g., drunkenness, vagrancy, disturbing the peace, curfew violation, loitering, false fire alarm, non-specific charges of suspicion or investigation, and traffic violations (except data will be included on arrests for vehicular manslaughter, driving under the influence of drugs or liquor, and hit and run), when unaccompanied by a § 20.32(a) offense. These exclusions may not be applicable to criminal history records maintained in state criminal history record repositories, including those states participating in the NFF.

(c) The exclusions enumerated above shall not apply to federal manual criminal history record information collected, maintained, and compiled by the FBI prior to the effective date of this subpart.

### § 20.33 Dissemination of criminal history record information.

(a) Criminal history record information contained in the III System and the FIRS may be made available:

(1) To criminal justice agencies for criminal justice purposes, which purposes include the screening of employees or applicants for employment hired by criminal justice agencies;

(2) To federal agencies authorized to receive it pursuant to federal statute or Executive order;

(3) For use in connection with licensing or employment, pursuant to Public Law 92-544, 86 Stat. 1115, or other federal legislation, and for other uses for which dissemination is authorized by federal law. Refer to § 50.12 of this chapter for dissemination guidelines relating to requests processed under this paragraph;

(4) For issuance of press releases and publicity designed to effect the apprehension of wanted persons in connection with serious or significant offenses;

(5) To criminal justice agencies for the conduct of background checks under the National Instant Criminal Background Check System (NICS);

(6) To noncriminal justice governmental agencies performing criminal justice dispatching functions or data

processing/ information services for criminal justice agencies; and

(7) To private contractors pursuant to a specific agreement with an agency identified in paragraphs (a)(1) or (a)(6) of this section and for the purpose of providing services for the administration of criminal justice pursuant to that agreement. The agreement must incorporate a security addendum approved by the Attorney General of the United States, which shall specifically authorize access to criminal history record information, limit the use of the information to the purposes for which it is provided, ensure the security and confidentiality of the information consistent with these regulations, provide for sanctions, and contain such other provisions as the Attorney General may require. The power and authority of the Attorney General hereunder shall be exercised by the FBI Director (or the Director's designee).

(b) The exchange of criminal history record information authorized by paragraph (a) of this section is subject to cancellation if dissemination is made outside the receiving departments, related agencies, or service providers identified in paragraphs (a)(6) and (a)(7) of this section.

(c) Nothing in these regulations prevents a criminal justice agency from disclosing to the public factual information concerning the status of an investigation, the apprehension, arrest, release, or prosecution of an individual, the adjudication of charges, or the correctional status of an individual, which is reasonably contemporaneous with the event to which the information relates.

(d) Criminal history records received from the III System or the FIRS shall be used only for the purpose requested and a current record should be requested when needed for a subsequent authorized use.

### § 20.34 Individual's right to access criminal history record information.

The procedures by which an individual may obtain a copy of his or her identification record from the FBI to review and request any change, correction, or update are set forth in §§ 16.30-16.34 of this chapter. The procedures by